

REMARKS

Claims 1, 5, 7-9, 30, 34, 36, 40-44, 46, 48, 49, 111, 112 and 115 were examined and reported in the Office Action. Claims 1, 5, 7-9, 30, 34, 36, 40-44, 46, 48, 49, 111, 112 and 115 are rejected. Claims 34 and 111 are cancelled. Claims 1, 5, 7-9, 30, 36, 40-44, 46, 48, 49, 112 and 115 remain.

Applicant requests reconsideration of the application in view of the following remarks.

I. 37 C.F.R. § 1.75(c)

It is asserted in the Office Action that claim 34 and 111 is objected under 37 C.F.R. § 1.75(c) as being in improper dependent form. Applicant has cancelled claim 34 and 111 to overcome the 37 C.F.R. § 1.75(c) objection.

Accordingly, withdrawal of the 37 C.F.R. § 1.75(c) objection for claim 34 and 111 is respectfully requested.

II. Double Patenting

The Examiner requests that Applicant file a terminal disclaimer to overcome the provisional obviousness-type double patenting rejection. In response, submitted herewith is a Terminal Disclaimer in compliance 37 CFR 1.321(c) responsive to the provisional rejection under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 24 of co-pending Application No. 10/390,422 (US 2003/0175494).

In view of the foregoing, it is submitted that all outstanding requirements have been addressed, and the claims pending for examination, namely claims 1, 5, 7-9, 30, 36, 40-44, 46, 48, 49, 112 and 115 are now in condition for allowance, which early action is requested.

If there are any fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. If a telephone interview would expedite the prosecution of this Application, the Examiner is invited to contact the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN

By: _____

Eric S. Hyman, Reg. No. 30,139

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
(310) 207-3800

CERTIFICATE OF MAILING:
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class Mail, With Sufficient Postage, In An Envelope Addressed To: Mail Stop A.P. Commissioner For Patents, P.O. Box 1340, Alexandria, VA 22313-1450

Linda Marie D'Elia

February 8, 2005

ESH/lmd